



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,807	11/11/2008	Rosie L. Burnell	CCS5006USPCT	5362
27777	7590	11/01/2011	EXAMINER	
PHILIP S. JOHNSON JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NJ 08933-7003			SCHMIDT, EMILY LOUISE	
			ART UNIT	PAPER NUMBER
			3767	
			NOTIFICATION DATE	DELIVERY MODE
			11/01/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jnjuspatent@corus.jnj.com
lhowd@its.jnj.com
gsanche@its.jnj.com

Office Action Summary	Application No. 10/578,807	Applicant(s) BURNELL ET AL.	
	Examiner EMILY SCHMIDT	Art Unit 3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 1-21 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1-21 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>September 6, 2011; October 14, 2011</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

1. Claims 10 and 19 are objected to because of the following informalities: the dependency of claims 10 and 19 needs to be properly corrected for dependency using strike through and underlining. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Bitdinger et al. (US 5,478,316).

With regard to claim 1, Bitdinger et al. teach an injection device comprising: a housing (Fig. 3 member 12) adapted to receive a syringe (Fig. 3 member 30) having a discharge nozzle and having a boot that covers its discharge nozzle (Figs. 3 and 4 boot 36), so that the syringe is movable between a retracted position in which the discharge nozzle is contained within the housing and an extended position in which the discharged nozzle extends from the housing through an exit aperture (see transition in Figs. 5 and 6); a releasable locking mechanism that retains the syringe in its retracted position (Fig. 3 interaction between 28A and 66B, Col. 5 lines 40-60); and a housing closure member that can occupy a first position, in which it locates on the housing and prevents the locking mechanism from being released, and a second position, in

Art Unit: 3767

which it does not prevent the locking mechanism from being released, the first position of the housing closure member being one in which it engages the boot, so that movement of the housing closure member to its second position results in removal of the boot from the syringe (Fig. 4 closure member 16).

With regard to claims 2-4, see Figs. 3-4 member 16.

With regard to claim 5, actuator 66C (Fig. 3), drive 46 (Fig. 3).

With regard to claim 6, biasing member 56 (Fig. 3), return member 40 (Fig. 3).

With regard to claims 7-10, release mechanism 28 (Fig. 3, see transition Fig. 3 to Fig. 6).

With regard to claim 11, see Col. 5 lines 55-60 28A and 66B move from engaged to disengaged.

With regard to claims 12 and 13, see ramped surface of 66B (Fig. 9 which engages in opening in 28 between 28A and generally 28C (Fig. 9).

With regard to claim 14, the trigger is taken as 58 see transition from 5 to 6 and disengages 46 with interlock member 60.

With regard to claim 15, the trigger is taken as 58 see transition from 5 to 6 and disengages 46, interlock member 28.

With regard to claim 16, see lock 60 (Figs. 5 and 6).

For the purposes of claims 17-21, the trigger is instead taken as 66 with projection 66B and aperture on the interlock member formed by 28A (Fig. 3), this alternate interpretation can also be applied to the parent claims. As such the releasable locking member of claim 1 in the alternate interpretation is taken to be the interaction between 60 and 52 (Figs. 5 and 6).

Response to Amendment

4. The amendments to the claims, drawings, and specification have been entered and are sufficient to overcome the previous objections.

Response to Arguments

5. Applicant's arguments filed October 14, 2011 have been fully considered but they are not persuasive. As applicant states in the remarks on Pg. 9 second paragraph, members 28A and 66B prevent the trigger from actuated, as such these constitute a locking mechanism. Further, the claims itself recites that the locking mechanism is releasable which the locking mechanism of Bitdinger is.

Conclusion

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 3767

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EMILY SCHMIDT whose telephone number is (571)270-3648. The examiner can normally be reached on Monday through Thursday 7:00 AM to 4:30 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Emily Schmidt/

Examiner, Art Unit 3767

/KEVIN C. SIRMONS/

Supervisory Patent Examiner, Art Unit 3767